

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

ORIGINAL
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AUG 7 - 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Bradenton, Florida)

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MM Docket No. 92-59
RM-7923

ORIGINAL
FILE

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

JOINT REQUEST FOR APPROVAL OF
AGREEMENT RELATED TO WITHDRAWAL OF
COUNTERPROPOSAL OF HIGH POINT PARTNERS

Pursuant to Section 1.420(j) of the Commission's rules and by counsel, Sunshine State Broadcasting Company, Inc., licensee of station WDUV(FM) Bradenton, Florida ("WDUV"), and High Point Broadcast Partners ("Partners"), proponent of a counterproposal to assign Channel 275A to High Point, Florida, hereby respectfully jointly request approval of their Agreement whereby Partners will withdraw its Counterproposal in this proceeding and WDUV will reimburse Partners for the legitimate and prudent expenses of preparing and filing its mutually exclusive Counterproposal in the above-referenced proceeding. In support whereof, it is stated as follows:

On March 31, 1992, the Commission's staff released the Notice

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of Proposed Rulemaking herein, DA 92-356 ("the NPRM"). The NPRM proposed to amend the FM Table of Allotments to substitute Channel 278C for Channel 277C1 at Bradenton, Florida. On May 22, 1992, Partners submitted their Counterproposal for High Point. WDUV and Partners have now entered into an Agreement contemplating the withdrawal of Partner's Counterproposal. That Agreement, for which Commission approval is sought pursuant to Section 1.420(j) of the Rules, contemplates reimbursement by WDUV of Partners' reasonable out-of-pocket expenses in preparing and filing the Counterproposal in exchange for the withdrawal of that proposal. Approval of the Agreement would be in the public interest because upon allotment of the channel, WDUV would be able to expeditiously implement the contemplated channel change and facilities upgrade, thus conserving the Commission's limited resources for litigation of allocations matters.

Attached hereto as Attachment A is a copy of the Agreement. Attached hereto as Attachments B and C are declarations under penalty of perjury executed by the parties' respective officers confirming that no consideration in excess of legitimate and prudent itemized expenses has been paid or promised to be paid in exchange for Partners' withdrawal of its Counterproposal.

Based on the foregoing, it is clear that approval of the Agreement will benefit the public and private interests involved here. The parties therefore respectfully request for expedited approval of the Agreement.

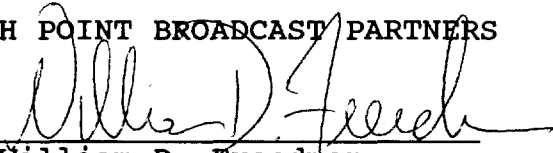
Respectfully submitted,

SUNSHINE STATE BROADCASTING
COMPANY INC.

By: 
George R. Borsari, Jr.
Its Counsel

BORSARI & PAXSON
2033 M Street, N.W.
Suite 630
Washington, DC 20036
(202) 296-4800

HIGH POINT BROADCAST PARTNERS

By: 
William D. Freedman
Its Counsel

Gurman, Kurtis, Blask & Freedman
1400 16th Street, N.W.
Suite 500
Washington, DC 20036
(202) 328-8200

August 7, 1992

AGREEMENT

This Agreement is made and entered into this 6th day of August, 1992, by and between Sunshine State Broadcasting Company, Inc., licensee of radio station WDUV(FM), Bradenton, Florida ("WDUV"), and High Point Broadcast Partners ("Partners").

WHEREAS, WDUV has proposed a channel upgrade and license modification, specifying operation of WDUV on Channel 278C (the "upgrade") in File No. MM Docket 92-59 ("the proceeding");

WHEREAS, Partners has submitted a Counterproposal in the proceeding which would instead add Channel 275A at High Point, Florida;

WHEREAS, the proposals of WDUV and Partners are mutually exclusive;

WHEREAS, Partners is willing to withdraw its counterproposal in return for payment of certain of its expenses incurred in the preparation and filing of the Counterproposal; and WDUV has agreed to so pay Partners in exchange for dismissal of its Counterproposal.

NOW THEREFORE, in consideration of the mutual agreements and undertakings of the parties hereto and subject to the approval of the Commission as provided herein, the parties agree as follows:

Immediately upon execution of this Agreement, Partners agrees to cause to be executed by the appropriate partner and to be filed with the Commission a statement that seeks Commission consent to withdrawal of Partners' Counterproposal for High Point. Also, immediately upon execution of this Agreement, WDUV and Partners shall submit to the Commission a joint request for approval of this Agreement which shall meet the requirements of Section 1.420 of the Commission's rules.

Upon execution of this Agreement, WDUV will provide William D. Freedman ("the Agent"), counsel for Partners, a check for Two Thousand Five Hundred Dollars (\$2,500.00), the Escrow payment, which the Agent shall place in an Escrow Account.

Within ten days of Commission approval of the withdrawal of Partner's Counterproposal, the Agent will pay to Partners the sum of the Two Thousand Five Hundred Dollars (\$2,500), or such lesser amount as the Commission will allow, incurred by Partners in the preparation and filing of the Counterproposal and will pay to WDUV the balance, if any, of the Escrow Payment.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, personal representatives, successors, and assigns.

This Agreement contains all of the terms agreed upon with respect to the subject matter hereof. This Agreement may not be altered or amended except by an instrument in writing signed by the party against whom enforcement of any such change is sought.

This Agreement shall be governed by the laws of the State of Florida, and the rules, regulations, and policies of the

Commission. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were on the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or agents, to be effective as of the date first written above.

SUNSHINE STATE BROADCASTING
COMPANY, INC.

By: Robert W. Nelson
Robert W. Nelson

Title: Vice-President

HIGH POINT BROADCAST PARTNERS

By: _____

Title: _____

Commission. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were on the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or agents, to be effective as of the date first written above.

SUNSHINE STATE BROADCASTING
COMPANY, INC.

By: Robert W. Nelson

Title: Vice-President

HIGH POINT BROADCAST PARTNERS

By: Neil H. Best

Title: General Partner

DECLARATION

I, Neil H. Presant, do hereby declare as follows:

1. I am a partner in High Point Broadcast Partners ("High Point").

2. On May 22, 1992, High Point filed a counterproposal in FCC MM Docket No. 92-59, proposing that FM Channel 275A be allocated to High Point, Florida (the "Counterproposal").

3. High Point has entered into an Agreement whereunder it has agreed to withdraw its Counterproposal in exchange for a payment from Sunshine State Broadcasting Company, Inc. ("Sunshine") of Two Thousand Five Hundred Dollars (\$2,500), or such lesser amount as the Commission may approve.

4. Attached hereto are invoices from Gurman, Kurtis, Blask & Freedman, Chartered and from Bromo Communications that document the legal and engineering fees, respectively, charged to High Point in connection with the preparation and prosecution of its Counterproposal. As demonstrated therein, High Point's legitimate and prudent expenses incurred in connection with its Counterproposal exceed the Two Thousand Five Hundred Dollars (\$2,500) that it is to receive from Sunshine pursuant to the Agreement.

5. Other than the payment from Sunshine contemplated by the Agreement, neither High Point nor its principals has received or will receive any money or other consideration in exchange for its withdrawal of its Counterproposal.

Under penalty of perjury, the foregoing is true and correct to the best of my knowledge.

8/6/92

Date

Neil H. Presant

Neil H. Presant

GURMAN, KURTIS, BLASK & FREEDMAN

CHARTERED

SUITE 500
1400 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20036

(202) 328-8200
TELECOPIER: (202) 462-1784

08/07/92

Invoice

High Point Broadcast Partners
37325 State Road 54 West
Zephyrhills, Florida 33541-6960

Client No. 01-00528

Matter No. 000-000-002 High Point/Bradenton FM Rulemaking

Legal and Engineering Services Rendered
Through 07/31/92

Preparation, filing and prosecution of Counterproposal in
FCC MM Docket No. 92-59.

Fees Billed \$2,478.52

Disbursements

Long distance charges \$ 6.54

Postage \$ 7.08

Photocopies \$ 26.50

Telecopier \$ 18.00

Total Disbursements \$ 58.12

Total Bill \$2,536.64

Bromo Communications, Inc.
1331 Ocean Boulevard, Suite 201
P.O. Box M
St. Simons Island, GA 31522
(912) 638-5608

High Point Broadcast Partners
c/o Mr. Neil Parant
37325 Highway 54 West
Zephyrhills, FL 33541

<u>Date</u>	<u>Description</u>	<u>Amount</u>
05-21-92	Petition for Rulemaking for High Point, Florida	\$ 500.00
05-21-92	Federal Express - overnight delivery to Mr. William Freedman	15.00
		<hr/>
		\$ 515.00

DECLARATION

I, Robert W. Nelson, Vice-President of Sunshine State Broadcasting Company, Inc., hereby certify under penalty of perjury that WDUV has not paid or promised to pay money or other consideration in excess of the legitimate and prudent expenses incurred by High Point Broadcast Partners in connection with the latter's rulemaking proposal in MM Docket No. 92-59.

Date: August 4, 1992


Robert W. Nelson

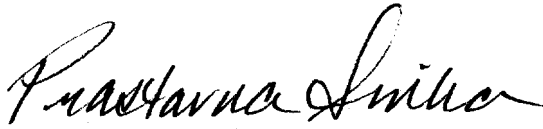
CERTIFICATE OF SERVICE

I, Prastavna Sinha, an employee of the law firm Borsari & Paxson, hereby certify that a true copy of the foregoing "Joint Request for Approval of Agreement Related to Withdrawal of Counterproposal of High Point Partners" was sent this 7th day of August, 1992, via first class United States mail, postage prepaid, to each of the following:

*Michael C. Ruger, Esquire
Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8322
Washington, DC 20554

*Ms. Nancy J. Walls
Allocations Branch
Policy & Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8317
Washington, DC 20554

Brian M. Madden, Esquire
Ms. April McClain-Delaney, Attorney
Cohn and Marks
1333 New Hampshire Avenue, N.W., Suite 600
Washington, DC 20036
Counsel for Entertainment Communica-
tions, Inc.


Prastavna Sinha

*Hand Delivery